IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 18388 of 2004

Between:

P. Saibaba, S/o. P. Venkat Ramana Sharma,
C/o. A. Anjaneyulu, H.No.1-767, Muthualamma Temple Street,
Anantapur, Anantapur District.

..... PETITIONER

AND

1. The Regional Manager, APSRTC, Anantapur Region, Anantapur District.
2. The Depot Manager, APSRTC, Guntakal Bus Depot, Anantapur District.
3. The Depot Manager, APSRTC, Gooty Bus Depot, Anantapur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents not paying the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e., w.e.f. 16-11-1983 to 1-7-1996) as illegal, arbitrary and unjust and consequently direct the respondent to pay the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e., w.e.f 16-11-1983 to 1-7-1996)

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 to 3: MR.P.VINAYAKA SWAMY, SC for A.P.S.R.T.C.

The Court at the stage of admission made the following :

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O R D E R:

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The petitioner was appointed as a conductor in the respondents –Corporation in the year 1980. He was issued a charge sheet alleging certain cash and ticket irregularities. Subsequently, an enquiry was conducted and through the proceedings dated 16-11-1983 he was terminated from service. Aggrieved by the said order, the petitioner filed I.D.No.280 of 1990 before the Labour Court-III, Ananthapur. The labour court through its award dated 5-5-1995 directed the respondents-Corporation to reinstate the petitioner with continuity of service, but without back wages. Consequent to the publication of the award, the 3rd respondent reinstated the petitioner into service on 1-7-1996. But, his pay was not fixed by adding the notional increments for the period from the date of termination till the date of reinstatement i.e., from 16-11-1983 to 1-7-1996. Subsequently, the petitioner filed a writ petition covered by W.P.No.16510 of 2004 before this Court for back wages and the same is pending. The grievance of the petitioner is that the respondents did not fix his pay by adding the notional increments despite his representation from 14-1-2004. He therefore approached this Court through this writ petition to direct the respondents to fix the pay of the petitioner by computing the notional increments from the date of termination till the date of reinstatement.

The award of the lower Court indicates that on reinstatement the petitioner is entitled for continuity of service, without back wages. A Division Bench of this Court in **REGIONAL MANAGER, APSRTC, NIZAMABAD v. B.CHANDER RAO** held that the employee is entitled for notional increments, in pursuance of the order of the labour court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a decision of the Supreme Court in **APSRTC & ANOTHER v. S.NARASA GOUD** wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The Division Bench relied on another judgment of the Supreme Court in **DEVENDRA PRATAP NARAIN RAI SHARMA v. STATE OF U.P** and gave the above direction.

In the light of the judgment of the Davison Bench in **B.Chander Rao** (1 supra) and in the light of the order of the labour court extending the benefit of the continuity of service, the petitioner is entitled to get the notional increments fixed for the purpose of fixation of his pay for the period from the date of termination till the date of reinstatement.

In the result, the writ petition is allowed. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of this order.

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8th October, 2004.

Mrb

To

1. The Regional Manager, APSRTC, Anantapur Region, Anantapur District.
2. The Depot Manager, APSRTC, Guntakal Bus Depot, Anantapur District.
3. The Depot Manager, APSRTC, Gooty Bus Depot, Anantapur District.
4. Two CD copies